



**California State Board of Pharmacy**  
 1625 N. Market Blvd, N219, Sacramento, CA 95834  
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 GOVERNOR EDMUND G. BROWN JR.

**APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE**

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Hannary Tena Nork</u>	Case No. <u>514947</u>
Address of Record: <u>1483 W. Norwood St</u> <u>Rialto, CA 92377</u>	

2014 DEC 17 PM 3:40

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 514947, I hereby request to surrender my pharmacy technician license, License No. 131169. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Hannary Nork  
 Applicant's Signature

[Signature]  
 Executive Officer's Approval

12-01-14  
 Date

12/18/14  
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues Against:

**HANNARY TENA NORK**

Pharmacy Technician Registration Applicant

Respondent.

Case No. 4947

OAH No. 2014030421

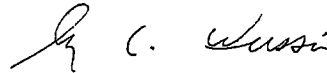
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 20, 2014.

It is so ORDERED on September 19, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Statement of Issues  
Against:

HANNARY TENA NORK  
Pharmacy Technician Registration Applicant,  
  
Respondent.

Case No. 4947

OAH No. 2014030421

**PROPOSED DECISION**

This matter came on regularly for hearing on August 11, 2014, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Virginia Herold (Complainant) was represented by Zachary T. Fanselow, Deputy Attorney General.

Hannary Tena Nork (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

**FACTUAL FINDINGS**

1. Complainant is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California (Board).

2. On or about February 6, 2013, Respondent submitted to the Board an application for a Pharmacy Technician Registration. The Board denied the application on July 1, 2013. Respondent timely filed a Request for Hearing, and this action ensued.

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3. On July 8, 2008, in the Superior Court of California, County of Los Angeles, in Case No. 8PK02932, Respondent pled nolo contendere and was convicted of violating Penal Code section 487, subdivision (a) (grand theft of personal property) a misdemeanor substantially related to the qualifications, functions, and duties of a pharmacy technician pursuant to California Code of Regulations, title 16, section 1770.

4. Imposition of sentence was suspended and Respondent was placed on summary probation for a period of three years under various terms and conditions including incarceration in the county jail for three days with credit for three days served, 30 days' service at Tree Farm, payment of restitution to Washington Mutual Bank in a sum not then determined, and a prohibition against entering Washington Mutual Bank.

5. The facts and circumstances underlying the conviction arose out of a friendship Respondent made with a woman via the Internet. Respondent agreed to help his friend after she told him she needed money. The friend deposited funds, in the form of checks drawn on closed accounts, into Respondent's bank account, at no fewer than three Washington Mutual Bank branches. Respondent withdrew some of those funds at another branch to give to his friend. Between May 9, 2008 and May 13, 2008, \$3,500 was deposited into his account, and he withdrew \$1,152. On May 13, 2008, he was arrested when he attempted to withdraw \$1,800 after withdrawing a total of \$1,450 in two earlier transactions that same day.

6. On June 10, 2008, Respondent made an appointment with a detective with the Pomona Police Department to discuss the case. Upon Respondent's arrival, the detective suspected that Respondent had been smoking marijuana. Initially, Respondent denied having done so but then admitted to the detective that he had smoked marijuana that morning. The detective refused to interview Respondent while Respondent was under the influence of marijuana.

7. At the administrative hearing, Respondent denied having profited from his criminal conduct. However, he was unable to explain why more money was deposited into his bank account than was withdrawn.

8. Respondent attributes his criminal conduct to his having been "young and stupid" and "too ignorant." (Respondent's terms.) He attributes his smoking marijuana before his interview with the detective to his having been "overwhelmed with stress" (Respondent's term) concerning the ramifications of his criminal conduct.

9. Respondent acknowledged that, although he was unaware of it at the time, he had engaged in illegal conduct, and that he made mistakes by trusting his "friend" and giving her his bank account number with which to make the deposits. He realizes he should have done things differently. He has gone to school to become a pharmacy technician to make a better life for himself and his family.

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10. Respondent has not had contact with his "friend" since the day of his arrest. Since that day, his only negative contact with the legal system has been two traffic tickets.

11. Respondent's baby is due next month.

### LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's application for a Pharmacy Technician Registration pursuant to Business and Professions Code<sup>1</sup> sections 480, subdivision (a)(3), and 4301, subdivision (1), for conviction of a substantially related crime, as set forth in Findings 3, 4, and 5.

2. Cause exists to deny Respondent's application for a Pharmacy Technician Registration pursuant to Code sections 480, subdivision (a)(2), and 4301, subdivision (f), for acts involving dishonesty, fraud and deceit, as set forth in Findings 3, 4, and 5.

3. Cause exists to deny Respondent's application for a Pharmacy Technician Registration pursuant to Code sections 480, subdivision (a)(2), and 4301, subdivision (h), for use of a controlled substance, as set forth in Finding 6.

4. The Board has established guidelines for assessing rehabilitation in connection with determining license discipline for an applicant. California Code of Regulations, title 16, section 1769, subdivision (b) states:

When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

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<sup>1</sup> All statutory references are to the Business and Professions Code unless otherwise indicated.

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

5. Although Respondent's criminal acts of defrauding a bank were severe, they were limited to a short period of time more than six years ago. Aside from two traffic citations, he has had no further negative contact with the legal system. He successfully completed probation, went to school to become a pharmacy technician, and became a family man.

6. After a single episode of criminal conduct, Respondent matured, changed his conduct, and sought to make a better life for himself and his family. He seeks a second chance to prove himself worthy of holding licensure with the Board. Given the temporal remoteness of his crime and his maturation since then, he should be awarded that second chance. However, although his crime is temporally remote, his poor judgment at that time, and his inability to account for the extra money in his bank account at the time of his arrest do not allow for unrestricted licensure at this time. A properly-conditioned probationary license should adequately protect the public safety, welfare, and interest.

#### ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to Respondent and immediately revoked; the order of revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

##### **1. Certification Prior to Resuming Work**

Respondent shall be automatically suspended from working as a pharmacy technician until he is certified as defined by Business and Professions Code section 4202, subdivision (a)(4) and provides satisfactory proof of certification to the Board. Respondent shall not resume working as a pharmacy technician until notified by the Board. Failure to achieve certification within one year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the Board.

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During suspension, Respondent shall not enter any pharmacy area or any portion of any other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent manage, administer, or assist any licensee of the Board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the Board.

Subject to the above restrictions, Respondent may continue to own or hold an interest in any licensed premises by the Board in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

**2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

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**3. Report to the Board**

Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

**4. Interview with the Board**

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear at two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

**5. Cooperate with Board Staff**

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

**6. Notice to Employers**

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 4947 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of Respondent's undertaking any new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4947 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

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If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 4947 in advance of Respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of Respondent's undertaking any new employment by or through a pharmacy employment service, Respondent shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 4947 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether Respondent is considered an employee, independent contractor or volunteer.

#### **7. Probation Monitoring Costs**

Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

#### **8. Status of License**

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If Respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

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## **9. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should Respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his pharmacy technician license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of Respondent's license history with the Board.

Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

## **10. Notification of a Change in Name, Residence Address, Mailing Address or Employment**

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the Board in writing within 10 days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the Board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

## **11. Tolling of Probation**

Except during periods of suspension, Respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, Respondent must nonetheless comply with all terms and conditions of probation.

Should Respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 80 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of work and must further notify the Board in writing within 10 days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months.

"Cessation of work" means calendar month during which Respondent is not working for at least 80 hours as a pharmacy technician, as defined in Business and Professions Code section 4115. "Resumption of work" means any calendar month during which Respondent is working as a pharmacy technician for at least 80 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

## **12. Violation of Probation**

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

## **13. Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

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#### 14. Random Drug Screening

Respondent, at his own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the Board or its designee. At all times, Respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, Respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy technician until notified by the Board in writing.

During suspension, Respondent shall not enter any pharmacy area or any portion of or any other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent manage, administer, or assist any licensee of the Board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the Board.

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an interest in any licensed premises in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

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**15. Completion of Probation**

Upon written notice by the Board indicating successful completion of probation, Respondent's pharmacy technician license will be fully restored.

Dated: August 19, 2014.

  
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H. STUART WAXMAN  
Administrative Law Judge  
Office of Administrative Hearings

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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
13 Against:

Case No. 4947

14 **HANNARY TENA NORK**

**STATEMENT OF ISSUES**

15 Pharmacy Technician Registration Applicant

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold ("Complainant") brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about February 15, 2013, the Board of Pharmacy ("Board") received an  
22 application for a Pharmacy Technician Registration from Hannary Tena Nork ("Respondent"). On  
23 or about February 6, 2013, Respondent certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 July 1, 2013.

26 **JURISDICTION**

27 3. This Statement of Issues is brought before the Board under the authority of the  
28 following laws. All section references are to the Business and Professions Code unless otherwise  
indicated.

1       4.   Section 4300 provides in pertinent part, that every license issued by the Board is  
2 subject to discipline, including suspension or revocation.

3                                   **STATUTORY PROVISIONS**

4       5.   Section 480 states, in pertinent part:

5           "(a) A board may deny a license regulated by this code on the grounds that the applicant  
6 has one of the following:

7           "(1) Been convicted of a crime. A conviction within the meaning of this section means a  
8 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
9 board is permitted to take following the establishment of a conviction may be taken when the time  
10 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
11 order granting probation is made suspending the imposition of sentence, irrespective of a  
12 subsequent order under the provisions of Section 1203.4 of the Penal Code.

13           "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
14 benefit himself or herself or another, or substantially injure another.

15           "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
16 would be grounds for suspension or revocation of license.

17                   (B) The board may deny a license pursuant to this subdivision only if the crime or act  
18 is substantially related to the qualifications, functions, or duties of the business or profession for  
19 which application is made.

20           "(b) Notwithstanding any other provision of this code, no person shall be denied a license  
21 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
22 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
23 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
24 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
25 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
26 Section 482."

27       6.   Section 4301 states, in pertinent part:  
28

1 "The board shall take action against any holder of a license who is guilty of unprofessional  
2 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
3 Unprofessional conduct shall include, but is not limited to, any of the following:

4 . . . .

5 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
6 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
7 whether the act is a felony or misdemeanor or not.

8 . . . .

9 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
10 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
11 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
12 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
13 practice authorized by the license."

14 . . . .

15 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
18 substances or of a violation of the statutes of this state regulating controlled substances or  
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
21 The board may inquire into the circumstances surrounding the commission of the crime, in order to  
22 fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
23 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
26 of this provision. The board may take action when the time for appeal has elapsed, or the  
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of



1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
3 indictment."

4 **REGULATORY PROVISIONS**

5 7. California Code of Regulations, title 16, section 1770, states:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license  
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
10 licensee or registrant to perform the functions authorized by his license or registration in a manner  
11 consistent with the public health, safety, or welfare."

12 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

13 8. "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code  
14 section 11054, subdivision (d)(13), and is categorized as a dangerous drug pursuant to section  
15 4022.

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 **(Conviction of a Substantially Related Crime)**

18 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),  
19 section 480, subdivision (a)(3), and section 4301, subdivision (l), in that Respondent was  
20 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy  
21 technician, as follows:

22 a. On or about July 8, 2008, after pleading nolo contendere, Respondent was convicted  
23 of one misdemeanor count of violating Penal Code section 487, subdivision (a) [grand theft of  
24 personal property], in the criminal proceeding entitled *The People of the State of California v.*  
25 *Hannary Tena Nork* (Super. Ct. Los Angeles County, 2008, No. 8PK02932.) The Court  
26 sentenced Respondent to serve three days in Los Angeles County Jail and placed him on probation  
27 for 3 years.

28 ///

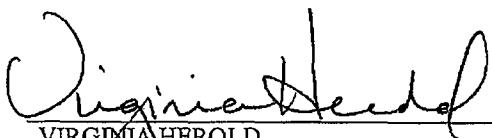


1 marijuana that morning. The detective then told Respondent it was a bad idea to smoke marijuana  
2 before an interview with a police detective and the detective declined to further interview  
3 Respondent.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
6 and that following the hearing, the Board issue a decision:

- 7 1. Denying the application of Respondent for a Pharmacy Technician Registration; and,  
8 2. Taking such other and further action as deemed necessary and proper.

9  
10 DATED: 2/4/14   
11 VIRGINIA HEROLD  
12 Executive Officer  
13 Board of Pharmacy  
14 Department of Consumer Affairs  
15 State of California  
16 Complainant

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